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**UNITED STATES DISTRICT COURT****EASTERN DISTRICT OF TEXAS**

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DAVID WAYNE FORD,

Plaintiff,

*versus*WARDEN E. SELLS, *et al.*,

Defendants.

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CIVIL ACTION NO. 9:22-CV-30

**ORDER ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff, David Wayne Ford, a former inmate at the Gib Lewis Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Defendants Warden Edward Sells, Correctional Officer IV Matthew J. Davison, Captain Cynthia G. Ivins, Major Carlos A. Applewhite, Assistant Heather M. Glover, Warden Sergio J. Perez, Jr., Warden B. Polk, and Major B. Marshall. The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to the applicable laws and orders of this court. On November 3, 2022, the magistrate judge entered a Report and Recommendation in which he recommended dismissing the complaint for want of prosecution as it appeared Plaintiff failed to update the court with his current address (#37). On November 17, 2022, a copy of the Report and Recommendation was returned with the notation that Plaintiff was discharged. However, on November 21, 2022, the Office of the Attorney General as Amicus Curiae, filed a Suggestion of Death, showing Plaintiff died on October 7, 2022.

The court received and considered the Report and Recommendation of United States Magistrate Judge pursuant to such referral, along with the record, pleadings and all available evidence. Ninety days has passed since the suggestion of death was filed, and no substitution has been filed by Plaintiff's estate or successors. After careful review, the court finds that the findings of facts and conclusion of law of the United States Magistrate Judge are correct, to the extent they recommend dismissal.

Accordingly, the Report and Recommendation of the United States Magistrate Judge (#37) is **PARTIALLY ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 9th day of March, 2023.

A handwritten signature in black ink, reading "Marcia A. Crone", is positioned above a horizontal line.

MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE